

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Testamentary and Intestate Jurisdiction
ORIGINAL SIDE

PLA/219/2023

IN THE GOODS OF:
CHAMELI BASU, DECEASED

BEFORE :

The Hon'ble JUSTICE KRISHNA RAO

Date : 6th January, 2025

Appearance:
Mr. Kaushik Pradhan, Adv.
...for the petitioner.

The Court : Mr. Kaushik Pradhan, learned Counsel, is appearing for the petitioner.

The petitioner has filed the present application for grant of probate of the last Will and Testament dated 13th February, 2015 executed by the testatrix, Chameli Basu who died on 17th June, 2018.

Counsel for the petitioner submits that the husband of the testatrix was pre-deceased to the testatrix who died on 4th August, 2003. Counsel for the petitioner submits that there was no issue in the wedlock between the testatrix and her husband. Counsel for the petitioner has disclosed the name of the other legal heirs though they are not the Class I legal heirs, i.e., brothers and sisters of the deceased, out of which one of the legal heirs, namely, Utpal Krishna Ghosh, has filed affidavit of consent stating that he has no objection for grant of probate of the last Will and Testament to the petitioner.

Counsel for the petitioner submits that citation was issued but in spite of the receipt of citation, none has come forward to file caveat, accordingly, the Department has submitted no caveat certificate certifying that no caveat has been entered against the grant of probate of the last Will and Testament.

Considered the submission made by the Counsel for the petitioner. Perused the original Will, death certificate of the testatrix, death certificate of the husband of the testatrix, affidavit of consent of one legal heir, i.e. the brother of the testatrix, no caveat certificate filed by the department and affidavit of attesting witness and affidavit of consent of another legal heir.

Considering the above, this Court finds that in the Will itself it is mentioned that the testatrix has no issue and the husband of the testatrix was pre-deceased to the testatrix who died on 4th August, 2003.

This Court finds that one of the attesting witness, namely, Manishmay Mitra in his affidavit has categorically stated that testatrix has executed her last Will and Testament in his presence while possessing good health and fit state of mind by appointing the petitioner as the executor of her last Will and Testament. This Court finds that the petitioner has proved the Will and is entitled to get probate.

Accordingly, the Department is directed to issue probate after compliance of all formalities.

At the time of grant of probate, the copy of the Will be made as part of the probate.

PLA/219/2023 is disposed of.

(KRISHNA RAO, J.)